

SPERLING & SLATER
PROFESSIONAL CORPORATION

TELEPHONE
(312) 641-3200
FACSIMILE
(312) 641-6492

55 WEST MONROE STREET
SUITE 3200
CHICAGO, IL 60603

November 8, 2018

VIA ECF

The Honorable Nicholas G. Garaufis
The Honorable Ramon E. Reyes, Jr.
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

Re: In re: American Express Anti-Steering Rules Antitrust Litigation,
Case No: 11-MD-2221-NGG-RER

Dear Judge Garaufis and Judge Reyes:

I write on behalf of the Merchant Plaintiffs and American Express regarding a proposed adjustment to the jointly proposed discovery schedule previously provided to the Court on August 10, 2018 (ECF No. 819), and approved in the Court's August 16, 2018 Minute Entry. The proposed adjustment moves the completion date for all expert discovery from February 15, 2019 to March 15, 2019, and is necessary to accommodate a health issue for Professor Bernheim, one of American Express' experts. In connection with these discussions, the parties have also met and conferred regarding all other pretrial milestones and jointly propose the attached pretrial schedule. The requested adjustment does not impact the scheduled April 29 trial date.

The parties are available to discuss this proposed schedule at any time convenient for the Court.

Respectfully submitted,



Paul E. Slater
Counsel for the Merchant Plaintiffs

cc: Counsel of Record (via ECF)

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

IN RE AMERICAN EXPRESS ANTI-
STEERING RULES ANTITRUST
LITIGATION (II)

Master File No: 11-MD-2221 (NGG) (RER)

This Document Relates to:

Rite Aid Corporation, et al. v. American Express Travel Related Services Co., Inc.,
Case No: 08-cv-2315-NGG-RER

CVS Pharmacy, Inc. v. American Express Travel Related Services Co., Inc., Case No:
08-cv-02316-NGG-RER

Walgreen Co. v. American Express Travel Related Services Co., Inc., Case No: 08-cv-
2317-NGG-RER

BI-LO, LLC v. American Express Travel Related Services Co., Inc., Case No: 08-cv-
02380-NGG-RER

H.E. Butt Grocery Co. v. American Express Travel Related Services Co. Inc., Case No:
08-cv-02406-NGG-RER

The Kroger Co., Safeway, Inc., Ahold USA, Inc., Albertson's LLC, Hy-Vee, Inc., The Great Atlantic & Pacific Tea Company, Inc. v. American Express Travel Related Services Co., Inc., Case No: 11-cv-0337-NGG-RER

Meijer, Inc., Publix Super Markets, Inc., Raley's, and Supervalu v. American Express Travel Related Services Co., Inc., Case No:
11-cv-0338-NGG-RER

[PROPOSED] PRETRIAL SCHEDULE

<u>Pre-Trial Event</u>	<u>Deadline</u>
Exchange initial discovery requests	August 10, 2018¹
Supplement initial discovery requests	August 13, 2018
Meet and confer regarding the discovery requests	August 14, 2018
Joint Letter to Court regarding discovery disputes, if any	August 15, 2018
Teleconference with the Court at 12:00 PM	August 16, 2018
Document production substantially complete	September 28, 2018
Close of additional fact discovery (*subject to discussion regarding requests)	October 17, 2018
Plaintiffs' additional expert reports due	November 16, 2018
Parties exchange initial deposition designations	December 21, 2018
American Express' additional expert reports due	January 4, 2019
Parties exchange trial witness lists	January 11, 2019
Parties exchange deposition counter-designations and objections to initial deposition designations	January 25, 2019
Parties exchange draft statements of undisputed facts relevant to their respective claims and defenses	January 25, 2019
Parties exchange proposed voir dire, jury instructions, and verdict sheets	January 25, 2019
American Express' Bernheim expert report due	February 1, 2019
Parties exchange trial exhibit lists	February 8, 2019
Parties exchange responsive deposition designations and objections to counter-designations	February 22, 2019
Plaintiffs' additional reply expert reports due	March 1, 2019

¹ The bolded entries are those previously presented to the Court on August 10, 2018 (ECF No. 819), and approved in the Court's August 16, 2018 Minute Entry.

Parties exchange any supplemental exhibit and witness lists	March 6, 2019
Parties conclude meet and confer discussions regarding voir dire, jury instructions, and verdict sheet(s)	March 8, 2019
Parties exchange proposed edits, in redline, to statement of undisputed facts for pre-trial order	March 8, 2019
Expert depositions complete	March 15, 2019
Each party designating trial exhibits or deposition testimony that a non-party designated as confidential shall give notice to the non-party that the materials may be publicly disclosed at trial	March 15, 2019
Parties exchange objections to trial exhibit lists	March 15, 2019
<i>Daubert</i> Motions and Motions <i>in Limine</i> Due	March 15, 2019
Parties exchange proposed stipulations regarding admissibility of trial exhibits	March 20, 2019
Parties conclude meet and confer regarding proposed stipulations of fact for pre-trial order	March 22, 2019
Parties submit to Court a joint submission of the parties' proposed voir dire, jury instructions, and verdict sheet(s)	March 26, 2019
Parties File Pretrial Memoranda and Joint Pretrial Order	March 29, 2019
Responses to Motions <i>in Limine</i> Due	March 29, 2019
Any party or non-party must file any motions objecting to public disclosure at trial of any trial exhibits or designated deposition testimony (or, must file any stipulations and proposed orders regarding such materials)	March 29, 2019
Oppositions to <i>Daubert</i> motions due	April 5, 2019
Parties file any oppositions to motions concerning public disclosure of exhibits and deposition testimony	April 12, 2019
Oral argument on <i>Daubert</i> and/or Motions <i>in Limine</i>	TBD
Final Pretrial Conference	TBD
Jury Selection Begins	April 15, 2019

Final Trial Exhibits Exchanged	April 18, 2019
Trial Begins	April 29, 2019

SO ORDERED:

Dated: _____

Honorable Nicholas G. Garaufis
United States District Judge